



**STAFF REPORT**  
MAPC: June 22, 2023  
DAB VI: July 10, 2023

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CASE NUMBER: CON2023-00024 (City)

APPLICANT/AGENT: The Shemeza Co., LLC (Applicant) / Seth VYamungu (Contract Purchaser)

REQUEST: Conditional Use to allow Vehicle and Equipment Sales, Outdoor

CURRENT ZONING: LC Limited Commercial District

SITE SIZE: 0.32 acres

LOCATION: Generally located on the northeast corner of East 13<sup>th</sup> Street North and North Topeka Avenue (404 East 13<sup>th</sup> Street North).

PROPOSED USE: Outdoor Automotive sales

RECOMMENDATION: Denial



**BACKGROUND:** The applicant is requesting a Conditional Use to allow Vehicle and Equipment Sales, Outdoor on property zoned LC Limited Commercial District. The property is addressed as 404 East 13<sup>th</sup> Street North, which is generally located on the northeast corner of East 13<sup>th</sup> Street North and North Topeka Avenue. It is currently developed with a clothing alterations store and a driving school, both of which intend to remain in operation. Therefore, the site will house three separate businesses. The driving school and the proposed vehicle sales lot intend to share office space.

The attached site plan indicates that the applicant intends to have five (5) outdoor display spaces in the northeast corner of the property in addition to four (4) vehicles inside the building. The site plan indicates there are six (6) off-street parking spaces on the south side of the lot, along East 13<sup>th</sup> Street North. These six (6) spaces are shared parking spaces for each of the three (3) businesses. An analysis of the off-street parking requirement for each business shows the total number of off-street parking spaces required is a minimum of eight (8) spaces. The applicant indicates that the alterations shop conducts business by appointment only and the driving school serves one student at a time who is typically dropped off for the lesson and picked up when the lesson concludes. Therefore, it is unlikely that either of those businesses will utilize their combined total of four (4) off-street parking spaces at any given time. Staff recommends that the applicant for the vehicle sales lot either submit a parking study to be reviewed by the Zoning Administrator or an Administrative Adjustment to reduce the off-street parking requirement for the site.

Vehicle and Equipment Sales are subject to Supplementary Use Regulations of the Unified Zoning Code (UZC) Section III-D.6.x. Below is a review of the proposed car lot compared to the Supplementary Use Regulations.

- (1) Location shall be Contiguous to a major Street as designated in the *Transportation Plan* adopted by the Governing Bodies, and as amended from time to time.

*Staff Comment: The property is contiguous to East 13<sup>th</sup> Street North, which is classified as an arterial street.*

- (2) Visual Screening of areas Adjacent to residential zoning Districts shall be provided to protect Adjacent properties from light, debris and noise and to preserve Adjacent property values even when the change in use to Vehicle and Equipment Sales replaces a previous use that is of equal or greater intensity. In no case shall Screening be less than that required by Sec. IV-B.1-3.

*Staff Comment: Property to the north is developed with residential but is zoned LC Limited Commercial District. Section IV-B.2 requires solid screening between non-residential and residential zoning districts. Per this section of the UZC, screening is not required along the north property line. However, a wood screening fence is currently in-place along the north property line.*

- (3) All Parking, Outdoor Storage and display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material. Parking barriers shall be installed along all perimeter boundaries Abutting streets, except at driveway entrances or where Fences are erected, to ensure that parked Vehicles do not encroach onto public Street Right-of-Way.

*Staff Comment: If approved, the applicant shall comply with this regulation.*

- (4) The lighting shall be in compliance with the lighting requirements of Sec. IC-B.4. No string-type or search lighting shall be permitted.

*Staff Comment: The site plan does not indicate if or where lighting facilities will be located. If approved, the applicant shall comply with this regulation.*

- (5) The noise levels shall be in compliance with the noise requirements of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted.

*Staff Comment: If approved, the applicant shall comply with this regulation.*

- (6) No repair work shall be conducted except in an enclosed Building, and further provided that no body or fender work is done.

*Staff Comment: If approved, the applicant shall comply with this regulation.*

- (7) Only those Signs permitted in the LC District shall be permitted on this Site, except that no portable, flashing, moving or off-site Signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted.

*Staff Comment: If approved, the applicant shall comply with this regulation.*

- (8) There shall be no use of elevated platforms for the display of Vehicles.

*Staff Comment: If approved, the applicant shall comply with this regulation.*

Properties to the east, north, and west are zoned LC Limited Commercial District. Property to the east is developed with the historic Adeline Apartment building and is used for multi-family housing. Property to the north is a single-family dwelling. Properties to the west are a mostly vacant lot fronting East 13<sup>th</sup> Street, except for a retail ice cooler/dispenser located on the far west portion of the property and a single-family dwelling one property north of East 13<sup>th</sup> Street. Property to the southwest is zoned TF-3 Two-Family Residential District and developed with a church parking lot. Property to the south is zoned TF-3 and developed with a single-family dwelling located in the Topeka-Emporia Historic District.

Within one block to the west, at the intersection of East 13<sup>th</sup> Street and North Broadway Avenue, there are two existing car lots located on the northwest and southwest corners. In 2019, the Wichita City Council followed the staff and MAPC recommendation and denied the expansion of the car lot on the southwest corner of East 13<sup>th</sup> Street and North Broadway Avenue from expanding to the intersection of East 13<sup>th</sup> Street and North Market Street. The Council cited possible negative impacts to nearby residential uses, public opposition, the suitability for the site to be used for other commercial uses in LC zoning, and the possibility of setting a precedent for future car lots to be located off of North Broadway. Outside the immediate vicinity, the nearest car lot is located one-third mile north on the southeast corner of North Broadway Avenue and East 16<sup>th</sup> Street.

**CASE HISTORY:** In 1885, the property was platted as part of the Wells Addition. In 1958, the property was rezoned from residential to LC Limited Commercial District. In 2016, and Conditional Use (CON2016-00061) was approved for Vehicle and Equipment Sales, Outdoor, but was considered null and void for failure to satisfy the conditions of approval by providing an updated site plan within six months of approval.

**ADJACENT ZONING AND LAND USE:**

North:	LC	Single-Family Dwelling
South:	TF-3	Single-Family Dwelling in Topeka-Emporia Historic District
West:	LC	Vacant Lot and Ice Retail Ice Cooler
East:	LC	Historic Adeline Apartment Building

**PUBLIC SERVICES:** East 13<sup>th</sup> Street North is a paved, four-lane arterial street with sidewalks on both sides. North Topeka Avenue is a paved, one-way arterial street with sidewalks on both sides. Wichita Transit provides regular bus service in the vicinity with bus stops along East 13<sup>th</sup> Street and North Broadway Avenue.

**CONFORMANCE TO PLANS/POLICIES:** The requested Conditional Use is governed by the following plans.

Community Investments Plan: The requested Conditional Use is not in conformance to the *Community Investments Plan*. The *Community Investments Plan* (the Wichita-Sedgwick County Comprehensive Plan) includes the 2035 Wichita Future Growth Concept Map. The Map identifies the area in which the site is located to be appropriate for “Residential”. This category anticipates all levels of residential densities typically found in an urban municipality. Though the site has been zoned commercially since 1958, LC Limited Commercial zoning provides a wide array of less intensive commercial uses than an auto sales lot, demonstrated by the existing alterations shop and driving school uses that will continue to operate on-site.

The requested Conditional Use is not in conformance with the Locational Guidelines of the *Community Investments Plan*.

- General Development Pattern: The requested Conditional Use is not in conformance with these Guidelines. These Guidelines encourage major commercial and employment centers to be located at the intersections of arterial streets and along highways and commercial corridors. Furthermore, the Guidelines encourage higher density residential uses and neighborhood serving retail and office uses to be used as buffers between lower density residential uses and major commercial and employment centers. Though the use would be located at the intersection of two arterial streets, North Topeka Avenue effectively functions as a residential collector and is primarily residential in nature in the near vicinity. Furthermore, East 13<sup>th</sup> Street at this location, is not a commercial corridor as there are a number of residential properties that directly abut East 13<sup>th</sup> Street east and west of this location. The primary commercial corridor in the vicinity is North Broadway Avenue. Finally, this Guideline recommends lower intensity uses to buffer the low-density residential from higher intensity uses.
- General Land Use Compatibility: The requested Conditional Use is not in conformance with these Guidelines. These Guidelines discourage higher intensity development from locating in areas of existing lower-intensity development, particularly established low-density residential areas. The current request is for a small-scale vehicle sales lot, but approval would permit the entire site to be utilized if the other two existing businesses were to relocate. This would permit the auto sales lot to grow in intensity where it abuts residential development to the north, east, and across the street to the south.

Wichita: Places for People Plan: The requested Conditional Use is not in conformance with the goals of the *Wichita: Places for People Plan*. The *Wichita: Places for People Plan* provides recommendations for urban infill development in the Established Central Area (ECA). The subject site is located within the ECA. In general, the ECA is envisioned as “a place for people - a place that provides for the movement of people - on foot, on bike and through transit - in balance with automobiles.”

- Strategies: The Plan recommends strategies to help guide the community in their actions to create walkable places within Wichita. The requested Conditional Use is not in conformance with Strategy 6, “Encourage infill and redevelopment that is contextual to the environment in which it is occurring.” The context of the environment is mostly residential with higher intensity commercial uses along the North Broadway Corridor and to the east near the railroad overpass. Historically, vehicle sales lots have been confined to the North Broadway Corridor. In 2019, the Wichita City Council denied expansion of an existing auto sales lot from expanding west to the intersection of East 13<sup>th</sup> Street and North Market Street—confining the auto-sales activity to the intersection of East 13<sup>th</sup> Street and North Broadway Avenue.
- Current Condition: The subject property is located within an area identified as an “Area of Opportunity.” The Places for People Plan defines Areas of Opportunity as those “areas with disconnected development patterns and a lack of walkable places and facilities. These areas need strategic reinvestment, both public and private, to assist in redefining and reinvigorating the area.” The immediate context has less regional draw than before and has the opportunity to capitalize on existing residential and transit service to redefine the context based on the principles of the *Places for People Plan*. A vehicle sales lot outside the context of the North Broadway Avenue commercial corridor is not in conformance with the principles of the *Places*

*for People Plan.*

**Historic Midtown Plan:** The requested Conditional Use is not in conformance with the Historic Midtown Plan. The Plan's preferred land uses discourage auto-related uses and destination uses that do not serve the local population. Additionally, the Plan identifies North Broadway Avenue to be the main commercial corridor where higher intensity uses should be located. Historically, North Broadway Avenue has been the corridor in which car lots have been located, and existing car lots in the vicinity are at the intersection of East 13<sup>th</sup> Street and North Broadway Avenue. Since the original Conditional Use was approved for the subject site in 2016, the City Council denied the expansion of the car lot to the intersection of East 13<sup>th</sup> Street and North Market Street, keeping auto sales as a use confined to the North Broadway Avenue corridor.

**RECOMMENDATION:** Based upon the information available at the time the report was prepared, staff recommends the Conditional Use be **DENIED.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:**  
Properties to the east, north, and west are zoned LC Limited Commercial District. Property to the west is developed with the historic Adeline Apartment building and is used for multi-family housing. Property to the north is a single-family dwelling. Properties to the west are a mostly vacant lot fronting East 13<sup>th</sup> Street, except for a retail ice cooler/dispenser located on the far west portion of the property and a single-family dwelling one property north of East 13<sup>th</sup> Street. Property to the southwest is zoned TF-3 Two-Family Residential District and developed with a church parking lot. Property to the south is zoned TF-3 and developed with a single-family dwelling located in the Topeka-Emporia Historic District.  
  
Within one block to the west, at the intersection of East 13<sup>th</sup> Street and North Broadway Avenue, there are two existing car lots located on the northwest and southwest corners. In 2019, the Wichita City Council followed the staff and MAPC recommendation and denied the expansion of the car lot on the southwest corner of East 13<sup>th</sup> Street and North Broadway Avenue from expanding to the intersection of East 13<sup>th</sup> Street and North Market Street. Outside the immediate vicinity, the nearest car lot is located one-third mile north on the southeast corner of North Broadway Avenue and East 16<sup>th</sup> Street.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC Limited Commercial District, which is suitable for a wide variety of residential, civic, and commercial land uses including the existing alterations shop and driving school that will continue to use the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The removal of restrictions to permit a vehicle sales lot could set a precedent for future vehicle sales lots in the area, outside of the North Broadway Avenue corridor. It would also permit a larger vehicle sales lot should the two other existing uses relocate. A vehicle sales lot could introduce light pollution and negative visual impact to the residential uses to the north, east, and the south.
4. **Length of time subject property has remained vacant as zoned:** The site has not been vacant since it was zoned commercial in 1958. In 1986, the current structure was constructed.
5. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of this application could have an impact on the welfare of abutting and adjacent residential uses. Denial of the request could represent a loss in the use and enjoyment of the applicant's property.
6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:**

The proposed application is not in conformance to the *Community Investments Plan*, the *Wichita Places for People Plan*, or the *Historic Midtown Plan* as discussed in the report.

7. Impact of the proposed development on community facilities: Should the request be approved; it is not anticipated to have significant negative impacts on community facilities. The proposed use is not likely to induce a significant increase in traffic to the area.
8. Opposition or support of neighborhood residents: Staff has not received comment from neighborhood residents at the time of the publication of the staff report.

Should the Metropolitan Area Planning Commission determine that this application be approved, staff recommends that it shall be subject to the following conditions and the Commission should adopt additional findings to support the recommendation.

- 1) The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
- 2) Because the UZC's definition of "vehicle repair limited" does not allow the outside repair or maintenance services of vehicles none shall be conducted on the site, unless a building is provided for this activity; UZC. Art. II, Sec.II-B.14.i. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.
- 3) All improvements to the property must be finished before car sales is permitted. Those improvements shall include, but not limited to, clearly marked customer and employee parking and the display area, proposed lighting.
- 4) The site will be developed according to the approved site plan.
- 5) A conditional use amendment shall be required for any changes to these conditions.
- 6) The applicant shall provide a parking study for review and approval by the Zoning Administrator detailing the daily use of the existing uses and demonstrating the opportunity to have a reduced off-street parking need for all three uses on-site.
- 7) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 8) If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

Attachments:

1. Site Plan
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Site Photos

A hand-drawn site plan of a property, oriented with North at the top. The plan includes the following features and dimensions:

- Overall Dimensions:** The property is 64' wide (West-East) and 48' deep (North-South).
- Rooms and Areas:**
  - Back yard:** Located at the top of the property.
  - Living room:** 725 sq ft, located in the center-right.
  - Dining room:** 406 sq ft, located in the center-left.
  - Kitchen:** 912 sq ft, located in the center-right, adjacent to the living room.
  - Bathroom:** 505 sq ft, located in the top-left corner.
  - Front door:** Located at the bottom-left corner.
  - Overhead door:** Located in the center-right, adjacent to the kitchen.
  - Wheel chair parking:** Located in the bottom-center.
  - Driving school and auto sales office:** A shared area located in the bottom-right corner.
  - Extra car lot:** Located in the top-right corner.
- Parking and Access:**
  - Entrance:** Located at the bottom center, labeled "Entrance 12th St".
  - Landscaping:** Located at the bottom right corner.
  - Fence:** A dashed line indicating a fence line, located in the bottom-right corner.
  - Yard West:** Located on the left side of the property.
  - Yard East:** Located on the right side of the property.
- Dimensions and Measurements:**
  - 48' ft:** The depth of the property (North-South).
  - 64' ft:** The width of the property (West-East).
  - 43' ft:** A measurement across the bottom-right corner.
  - 43' ft:** A measurement across the bottom-right corner, adjacent to the fence.
  - 24' ft:** A measurement across the top-right corner.
  - 230 sq ft:** A measurement across the living room area.
  - 406 sq ft:** The area of the dining room.
  - 725 sq ft:** The area of the living room.
  - 912 sq ft:** The area of the kitchen.
  - 505 sq ft:** The area of the bathroom.














# 2035 Wichita Future Growth Concept Map

## Legend

-  Established Central Area
-  Residential and Employment Mix
-  New Employment
-  New Residential
-  Wichita City Limits
-  Other Cities
-  Northwest Bypass Right-of-Way

## Statistical Development Areas

-  Other Urban Growth Areas 2014
-  Other Urban Growth Areas 2014
-  Rural Growth Areas 2014

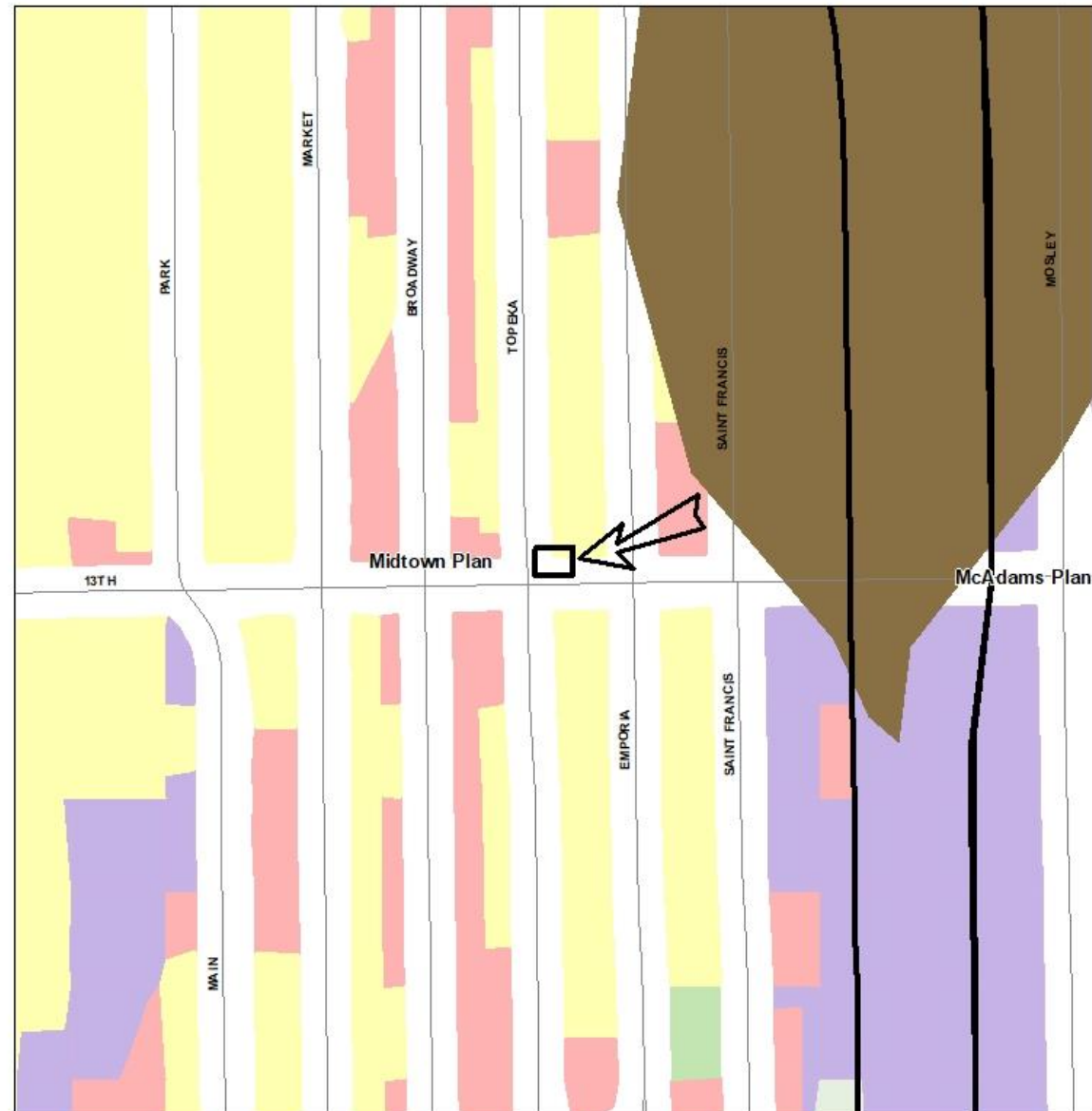
## LAND USE

-  Residential
-  Commercial
-  Industrial
-  Major Air Transportation & Military
-  Parks and Open Space
-  Agricultural or Vacant
-  Major Institutional
-  Nghbd\_Plan\_Areas

N



City of Wichita, Kansas  
Metropolitan Area Planning Commission  
2023-2024  
Wichita Future Growth Concept Map  
This map is a conceptual representation of future growth and is not intended to be used for legal purposes. It is subject to change without notice.  
Map Date: 10/20/2023  
Map Scale: Not to Scale  
Map Author: City of Wichita, Kansas  
Map Reviewer: City of Wichita, Kansas  
Map Contact: City of Wichita, Kansas  
Map Phone: 316-253-3000  
Map Email: planning@cityofwichita.com  
Map Website: cityofwichita.com





**Looking northeast at site**



**Looking west away from site**



**Looking north at property west of site**



**Looking north away from site**





**Looking south away from site**



**Looking southwest away from site**

